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THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: **BIRD et al.**

Appln. No.: **10/523,153**

Filed: **January 27, 2005**

Title: **A BULK
COMMUNICATIONS
PROCESS USING MULTIPLE
DELIVERY MEDIA**

Group

Art Unit: **Not Yet Assigned**

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P. O. Box 1450
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RENEWED PETITION UNDER 37 C.F.R. §1.47(a)

Sir:

Responsive to Decision on Petition mailed on October 2, 2006, a petition for 5-months extension of time having been filed concurrently herewith along with the appropriate extension fee, Applicants respectfully submit an additional evidence to satisfy that the non-signing joint inventors cannot be reached after diligent effort or refuse to sign.

The above-identified US national phase application of PCT/AU2003/000954, was filed January 27, 2005, in the United States Patent and Trademark Office. The National phase application (U.S. Appln. No. 10/523,153) was filed in accordance with 35 U.S.C. §371, in which case the U.S. application is identical to the PCT application PCT/AU2003/000954. The subject application was filed with an unsigned Declaration and is subject to a Notification of Missing Requirements requiring an executed Declaration. Seven inventors are named on the present application. Five inventors have signed the

Declaration and two inventors, Kevin Bryan Levine and Michael Robert Stewart, refused to sign. On October 6, 2005, Applicants filed a Petition under 37 C.F.R. §1.47(a) to accept a Declaration signed by five inventors due to the refusal of the joint inventors Levine and Stewart to sign. The Petition was dismissed without prejudice as not satisfying a requirement of a *bona fide* attempt to present a copy of the application papers to the non-signing inventors, Kevin Bryan Levine and Michael Robert Stewart. On July 26, 2006 a Renewal Petition was filed to provide information missing from the earlier petition and to show diligence in trying to obtain signatures.

The last mentioned Renewal Petition was denied raising certain questions regarding the prior declarations and denying the petition for failure to provide sufficient proof that the non-signing inventors refuse to sign or cannot be reached after diligent effort. The remaining portions (1)(3) and (4) of 37 CFR 1.47(a) were stated to have been satisfied in the record.

In addition to those declarations and exhibits previously sent, the present petition includes Declarations by Carl David Harrap and Iain Bartram. Attempts have been made to identify the address of non-signing inventor Stewart including contacting colleagues of Mr. Stewart while they were employees of ConnXion (Bartram's Declaration paragraphs 4, 5 and 6). Mr. Bartram has been informed by one of the colleagues that Mr. Stewart does not want to have any contact with the individuals seeking the signature (paragraph 6). Further, Mr. Bartram believes that Mr. Stewart is in the U.K. and he purchased an Election Roll in an attempt to identify Mr. Stewart's address. Mr. Stewart's address could not be identified from the Election Roll. In short, applicant knows of no other way to try to contact Mr. Stewart after the diligent efforts described in the present and past Declarations.

Mr. Levine's address is apparently correct. Mail, as described in the Harrap Declaration, has been left at that address and after several attempts to deliver, including leaving notes by the Post Office, the mail was not accepted. Telephone calls have been made to the address in question and Requests to call back have been left. One telephone discussion with an unknown answerer even indicated Mr. Levine would call back, giving an indication of the accurate address. No one at the address in question responded to the notes from the Post Office or the telephone messages. Clearly, Mr. Levine's conduct amounts to a refusal to sign.

The interested parties are not attempting to exclude inventors Stewart or Levine from their rights as inventors. The interested parties want them to sign and to participate in the prosecution of the application. It is clear that both are avoiding contact with the interested parties in some attempt to frustrate the situation. It may be possible with hindsight to identify some as yet unturned over stone, but surely the interested parties have exhausted all the reasonable avenues they can think of to get the necessary signatures.

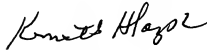
Their efforts have been diligent. When inventors such as the non-signing Mr. Levine and Mr. Stewart do not want to be contacted they can make doing so exceedingly difficult with no real hope of success. Clearly, the application should be allowed to continue to prosecution with, as is always the case, the right of the missing inventors to join as they see fit.

Applicants hereby request that the Declaration signed by five joint inventors be accepted on behalf of all the inventors of the above-identified US application since the non-signing joint inventors cannot be reached after diligent effort and/or refuse to sign.

The Commissioner is hereby authorized to charge any additional fees which may be required in this application under 37 C.F.R. §§1.16-1.17 during its entire pendency, or credit any overpayment, to Deposit Account No. 06-1135. Should no proper payment be enclosed herewith, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 06-1135.

Respectfully submitted,

FITCH, EVEN, TABIN & FLANNERY



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Date: 05/01/2007

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